03-26-07

AF/2643

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Atty. Dkt. No. 035451-0169 (3707.Palm)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Kammer, David
Title:	DATA PRIORITIZATION AND DISTRIBUTION LIMITATION SYSTEM AND METHOD
Appl. No.:	10/006,952
Filing Date:	11/5/2001
Examiner:	Sams, Matthew C.
Art Unit:	2643
Confirmation No.:	2782

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Roberta A. Cooper (Printed Name)

Roberta A. Cooper (Signature)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is the following document for the above-identified application.

[X] Supplemental Reply Brief under 37 C.F.R. § 41.41 (4 pages).

Respectfully submitted,

Date 3/23/2007

By

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SUPPLEMENTAL REPLY BRIEF

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Sir:

Under the provisions of 37 C.F.R. § 41.41, this Supplemental Reply Brief is being filed in response to the Examiner's Supplemental Answer dated February 15, 2007. The Appeal Brief was filed May 1, 2006, in response to a Final Action dated December 1, 2005. A previous Reply Brief was filed September 13, 2006, in response to the Examiner's Answer dated July 14, 2006.

REMARKS

The Examiner's Supplemental Answer included the following response to Appellant's Reply Brief:

> It is the Examiner's opinion that "activates a matchmaking feature on his/her MU 101a" (Hendrey Col. 9 lines 45-48) and a "matchmaker 107 may be partially or entirely a person using a telecommunication device and having access to distance information provided by telecommunication infrastructure 120" (Hendrey Col. 12 lines 52-56) teaches that the matchmaking feature can be integrated into a mobile device and controlled by the user of the mobile device with the matchmaking feature.
>
> . . .
>
> It is the Examiner's opinion that since the "request for matchmaking via a wireless link 110 through telecommunication system infrastructure 120" (Hendrey Col. 9 lines 54-56) is an implicit request for location information (Hendrey Col. 9 lines 57-67), the user of a mobile device with an integrated matchmaking feature meets the second requirement of a "matchmaker" that is "having access to distance information provided by telecommunication infrastructure 120". (Col. 12 lines 55-56) Therefore it is obvious that Hendrey teaches the "matchmaking user" can be the same as "the mobile user".

Appellant respectfully disagrees, and submits that Hendrey et al. teaches that the matchmaking functions are carried out by a separate entity (107) (whether automated or not) than the mobile user's device (101) (see, for example, FIG. 1 of Hendrey et al. and col. 9, lines 54-56 "the initiator's MU 101a transmits a request for matchmaking via a wireless link . . . to matchmaker 107"). Accordingly, Appellant further submits, as discussed in more detail below and in Appellant's previously submitted Appeal Brief and Reply Brief, that the combination of Bork et al. in view of Hendrey et al. fails to teach or suggest displaying a sorted list to a user of a handheld or wireless communication device, as claimed in independent claims 1, 8, 16, and 24.

Specifically, Appellant submits that the Examiner has mischaracterized the disclosure of Hendrey et al. at column 9, lines 57-67 in stating that a request for matchmaking from MU 101a is "an implicit request for location information." Appellant points to the portion of Hendrey et al. relied on by the Examiner, which states that

> the transmission of location information in step 702 may be implicit with the request [for matchmaking] rather than explicit in a message originated by MU 101. That is, the infrastructure 120 may provide location information using network based methods, such as TDOA, AOA, or other method known in the art.

Thus, rather than the request for matchmaking being "an implicit request for location information," as suggested by the Examiner, the request for matchmaking is used by infrastructure 120 to determine the location of MU 101a using, for example, TDOA and/or AOA methodologies. This information is then used by the separate matchmaker 107 in carrying out the matchmaker functions. Appellant submits that the Examiner has mischaracterized the teaching of Hendrey et al. in making the assertion that "it is obvious that Hendrey teaches that the 'matchmaking used' can be the same as 'the mobile user.'

Accordingly, Appellant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness with respect to independent claims 1, 8, 16, and 24, and their respective dependent claims, because, as also discussed further in Appellant's Appeal Brief and previously filed Reply Brief, the combination of Bork et al. in view of Hendrey et al. fails to teach or suggest at least one limitation of each of the rejected claims.

Further, even if a sorted list is generated in Hendrey et al. by a "matchmaker," this information in used only by the matchmaker (whether automated or not) as a separate entity, and Hendrey et al. teaches that this information is not provided to a user of the wireless device. This is a substantial change in operation from the system of Bork et al., where specific distance and direction information is provided to a user of the wireless device. Applying the concepts of Hendrey et al. to the device in Bork et al. would eliminate displaying the desired direction and distance information in Bork et al. Therefore, because the proposed combination of Bork et al. and Hendrey et al. would change the principal of operation of Bork et al., there is no suggestion to combine the references.

Therefore, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness because there is no suggestion to combine the teachings of Bork et

al. and Hendrey et al. Accordingly, the rejection of claims 1-5, 8-13, 15-19, and 23-29 should be reversed.

CONCLUSION

In view of the foregoing, as well as in view of the Arguments set forth in Appellant's Appeal Brief and the remarks made in Appellant's previously filed Reply Brief, Appellant respectfully requests that the Board reverse all claim rejections and indicate that a notice of allowance respecting all pending claims should be issued.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447.

Should no proper payment be enclosed herewith, as by a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is hereby authorized to charge the unpaid amount to Deposit Account No. 06-1447.

Respectfully submitted,

Date 3/23/2007

By _____

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